

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**

**CIVIL APPLICATION (CAF) NO. 2290 OF 2015**

**IN**

**FIRST APPEAL NO. 430 OF 2013**

*(Vidarbha Irrigation Development Corporation Vs. Kantilal Samiramal Kotecha & others)*

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

Shri Anand Parchure, Advocate for the applicant/respondent No.1.  
Shri G. B. Kasat, Advocate for the appellant.  
Shri Rao, A.G.P, for the State.

**CORAM : B. P. DHARMADHIKARI AND  
P. N. DESHMUKH, JJ.**

**DATED : 07 OCTOBER, 2015**

Advocate Shri Parchure seeks suitable modification in order dated 01/9/2015. He states that only 50% of the amount in deposit will be allowed to be withdrawn. The land owner has lost entire land and, therefore, he is not in a position to give any surety as solvency is required for furnishing it.

Shri Kasat, learned Counsel for the appellant and learned A.G.P. for respondent No.2-the State have opposed the modification stating that the orders have been passed after hearing all concerned by this Court.

The facts being pressed into service are apparent on record. This Court has recorded the reasons in its order dated 01/9/2015 while permitting the amount of Rs.50,00,000/- to

be withdrawn. Total amount in deposit is Rs.1,18,31,266/-. The rest of the amount is already directed to be deposited in any nationalized Bank initially for a period of three years.

Thus, this Court has on 01/9/2015 permitted the applicant-land owner to withdraw the amount of Rs.50,00,000/- on furnishing an undertaking as also on giving a surety of the said amount.

We modify and substitute that arrangement and the amount of Rs.25,00,000/- is allowed to be withdrawn on giving an undertaking as mentioned in order dated 01/9/2015. The remaining amount of Rs.25,00,000/- shall be allowed to be withdrawn on furnishing similar undertaking and also an undertaking that the said amount is being invested in the Fixed Deposit Receipt in a named nationalized Bank for a period of three years and shall not be withdrawn or touched during the pendency of appeal or till further orders of this Court in the matter. The Registry shall accordingly issue cheque of Rs.25,00,000/- in the name of said Bank.

Thus, total amount allowed to be withdrawn of Rs.50,00,000/- is bifurcated into two and is allowed to be withdrawn on modified terms stipulated supra.

Civil application is partly allowed and disposed of accordingly.